



APPLICATION NO.

10/786,502

United States Patent and Trademark Office

FILING DATE

02/24/2004

10/19/2005

7590

c/o: InSound Medical, Inc.

Sharon R. Kantor

37500 Central Court Newark, CA 94560 UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450

FIRST NAMED INVENTOR	Alexandria, Virginia 22313-1450 www.uspto.gov		
	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
Adnan Shennib	022176-000210US / · IHS/002	4013	
	EXAMINER		

HARVEY, DIONNE

ART UNIT PAPER NUMBER

2646

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applica	ation No.	Applicant(s)			
		10/786	,502	SHENNIB ET AL.			
	Office Action Summary	Examin	er	Art Unit			
			N. Harvey	2646			
Period fo	The MAILING DATE of this commu or Reply	nication appears on t	he cover sheet with the c	orrespondence addr	9SS		
WHIC - Exter after - If NO - Failu Any i	ORTENED STATUTORY PERIOD FOR CHEVER IS LONGER, FROM THE Masions of time may be available under the provision SIX (6) MONTHS from the mailing date of this comperiod for reply is specified above, the maximum set or reply within the set or extended period for reply received by the Office later than three months ed patent term adjustment. See 37 CFR 1.704(b).	MAILING DATE OF sof 37 CFR 1.136(a). In no munication. tatutory period will apply and y will, by statute, cause the a	THIS COMMUNICATION event, however, may a reply be tim will expire SIX (6) MONTHS from application to become ABANDONE	N. tely filed the mailing date of this comr (35 U.S.C. § 133).			
Status							
1)	Responsive to communication(s) fil	ed on <i>21 June 2005</i>					
<u> </u>							
3)	<u> </u>						
-,	closed in accordance with the pract		•		1011G 13		
Dispositi	on of Claims						
		application					
	 ✓ Claim(s) <u>1-130</u> is/are pending in the application. 4a) Of the above claim(s) <u>1-103</u> is/are withdrawn from consideration. 						
	5)⊠ Claim(s) <u>104-127</u> is/are allowed.						
	6)⊠ Claim(s) <u>128-130</u> is/are rejected.						
	Claim(s) is/are objected to.						
	Claim(s) are subject to restri	ction and/or election	requirement ·				
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_	on Papers						
· · · · · · · · · · · · · · · · · · ·	The specification is objected to by the						
10) \boxtimes The drawing(s) filed on $2/24/2004$ is/are: a) \square accepted or b) \boxtimes objected to by the Examiner.							
	Applicant may not request that any obje		·	` ,			
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
11)	The oath or declaration is objected t	o by the Examiner. I	Note the attached Office	Action or form PTO-	-152.		
Priority u	ınder 35 U.S.C. § 119				•		
	Acknowledgment is made of a claim ☑ All b)⊡ Some * c)⊡ None of:	for foreign priority u	ınder 35 U.S.C. § 119(a)	-(d) or (f).			
	1. Certified copies of the priority documents have been received.						
	2. Certified copies of the priority	documents have be	een received in Application	on No			
	3. Copies of the certified copies	of the priority docur	nents have been receive	d in this National St	age		
	application from the Internation						
, * S	see the attached detailed Office action	on for a list of the ce	rtified copies not receive	d.			
				•			
Attachment	r(e)						
_	e of References Cited (PTO-892)		4) Interview Summary	(PTO_413)			
2) 🔲 Notic	e of Draftsperson's Patent Drawing Review (F		Paper No(s)/Mail Da	te			
	nation Disclosure Statement(s) (PTO-1449 or No(s)/Mail Date	PTO/SB/08)	5) Notice of Informal P	atent Application (PTO-15	52)		

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DETAILED ACTION

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Drawings

1. Figure 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 2. Claims 128-130 are rejected under 35 U.S.C. 102(e) as being anticipated by Brimhall U.S. 6,359,993.

Regarding claim 128, in **figure 7**, **Brimhall** teaches a tubular insert **238** for an ear canal of a wearer, comprising: a sound conduction tube (see column 10, lines 28-29 wherein Brimhall teaches a elongated pipe-shape) constructed and adapted for removable connection to a sound receiver module **214** of a hearing device, for comfortable insertion into and removal from the ear canal; sounds output from receiver module **214**, inherently passes through an opening in said tube **238**, said tube thereby reading on "to deliver sound received by the module to the tympanic membrane";

Brimhall teaches that tube **238** includes a skirt like portion **256** which is filled with a compliant material, thereby reading on "and at least one appendage on the sound conduction tube to establish a substantially acoustically sealed space in which the sound is to be delivered to the tympanic membrane";

And another appendage **280** is provided on the <u>sound conduction tube</u> or on the sound receiver module for cooperating with said at least one appendage to direct occlusion sounds away from the tympanic membrane **via 290** when said tubular insert is connected to said sound receiver module and worn in the ear canal.

Regarding claim 129, **figure 7** of Brimhall teaches sound conduction tube **212** for removable connection to a receiver module **214** comprising: a first sound conduction channel **258**, *into which the receiver is located and the out of which acoustic sound from said receiver is transmitted*, coupled to the sound conduction tube for enabling sound delivery to the tympanic membrane; and a second sound conduction channel **280** simultaneously directing occlusion sounds away from the tympanic membrane **via 290**

when the sound conduction tube is connected to said receiver section and inserted in the ear canal.

Regarding claim 130, **figure 7** of Brimhall teaches a tube portion **212** for insertion into the ear canal; means **258**, operatively associated with the tube portion for delivering received sound to an acoustically sealed space, through the insertion of receiver module **214**; and means **280** operatively associated with the tube portion for directing occlusion sounds away from the eardrum.

Allowable Subject Matter

3. Claims 104-127 allowed.

Terminal Disclaimer

4. The terminal disclaimer filed on 6/21/2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent no. 6,724,902 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. Harvey

SUHAN NI PRIMARY EXAMINER